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SUBJECT: UNAMID CONSULTATIONS PRIOR TO ICC DECISION

Classified By: Ambassador Susan E. Rice for reasons 1.4 (b) and (d).

11. (U) This is an action request. See paragraph 15.

12. (SBU) Summary: In a February 17 briefing to the Security Council on UNAMID, U/SYG Le Roy emphasized that adequately equipping troops already on the ground in Darfur should become a priority. Le Roy also briefed the Council on the agreement reached in Doha between the Justice and Equality Movement (JEM) and the Government of Sudan (GOS), and he clarified that the International Criminal Court (ICC) had not provided advance notice to the UN of any decision on possible issuance of an arrest warrant against President Bashir. Members discussed UNAMID deployment, the preliminary Doha agreement, the upcoming ICC decision, and the Council's failure to issue a Presidential Statement (PRST) in support of UNAMID's decision to remain in Muhajeriya. The Presidency orally briefed the press after consultations-- welcoming the Doha agreement with the hope this would lead to cessation of hostilities and comprehensive peace. End Summary.

Le Roy Briefs the Council

13. (SBU) On February 17, the Security Council held consultations on the Secretary General's February report on the hybrid United Nations/African Union Mission in Darfur (UNAMID). Under Secretary General for the Department of Peace Keeping Operations Alain Le Roy began his briefing by noting that UNAMID has deployed 64 percent of its mandated strength but added that often police and troops arrive before their equipment does. Le Roy cautioned that the UN would be unable to meet its goal for 80 percent deployment by the end of March unless Troop Contributing Countries (TCC) assist more fully in completion of predeployment tasks such as identifying equipment needed.

14. (SBU) Le Roy then briefed the Council on the "Agreement of Good Will and Confidence Building for the Settlement of the Problem in Darfur" reached between JEM and the GOS in Doha February 17. Le Roy explained that UN/AU Joint Mediator Bassole had elected to negotiate first with JEM because this is one of the strongest rebel groups that is also politically coherent. Le Roy acknowledged that eventually all rebel groups would need to participate in order to develop a sustainable peace agreement. He noted that the terms of the preliminary agreement require serious and comprehensive peace talks to begin within the next three months.

15. (SBU) Regarding the ICC, Le Roy denied that the UN had received advance notice of any ICC decision regarding the prosecutor's request for issuance of an arrest warrant against Sudanese President Bashir, despite media reports to the contrary. He said that the UN has taken practical measures to ensure the safety of UN personnel, so that they can protect civilians in the aftermath of an ICC decision. Le Roy noted that UN actions in Muhajeriya established a precedent for what the UN will expect from mission personnel post-ICC decision; UNAMID personnel will expect to remain on

the ground.

UNAMID Deployment

¶16. (SBU) Ambassador Rice noted that UNAMID had reached 64 percent deployment of its authorized strength and noted that the tripartite mechanism between the UN, AU and GOS had contributed to recent deployment successes. Rice indicated that the U.S. had been pleased to provide assistance with airlift of heavy equipment from Kigali to Darfur for the Rwandan battalions and with transportation of containers within Darfur. Rice agreed with the Secretary General's conclusion that operational effectiveness had been undermined by logistical constraints and asked that the UN provide a detailed list of the equipment that would be needed to bring current troops up to maximum effectiveness.

¶17. (SBU) UK Perm Rep Sawers stated that deployment had taken place more slowly than expected. French Perm Rep Ripert recognized improved GOS cooperation since October 2008 and called deployment developments "encouraging" even if still behind schedule. He cautioned that GOS actions should not be characterized as the GOS having made concessions, but rather allowing UNAMID to do its job. Austria asked how many UNAMID battalions had reached full operational capability. Japan commended the Secretary General's deployment efforts and noted its understanding of the difficulties in reaching 80 percent deployment by the end of March. Russia and China welcomed the January 19 agreement in which the GOS agreed to increase the scope of UNAMID's air operations, and China also welcomed U.S. assistance in transporting oversized cargo.

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Burkina Faso said that it would appreciate accelerated transfer of its contingent owned equipment (COE) and indicated a readiness to deploy.

Agreement Between JEM and GOS

¶18. (SBU) Ambassador Rice welcomed the good will agreement between JEM and GOS and characterized it as a modest but first step. Rice clarified that this preliminary agreement was not a cessation of hostilities and stressed that what is most important is how the GOS and JEM respond in the upcoming weeks, with actions being the relevant metric, not words. French Perm Rep Ripert agreed that the agreement was promising but still needed to be implemented. UK Perm Rep Sawers questioned why the agreement had been signed by lower-level officials rather than the high-level delegates who attended the meeting.

¶19. (SBU) Libyan Perm Rep Ettalhi urged the Council to seize the momentum created by the goodwill agreement and issue a statement welcoming the agreement, commending the efforts of host country Qatar and UN/AU Mediator Bassole, and calling on the parties to continue negotiating. China and Vietnam also urged the Council to issue a statement. Uganda noted that JEM had remained outside the peace process prior to the February 10 - 17 talks in Doha and that, as a powerful rebel group, JEM's decision to join the peace process would lead to other rebel groups joining. Russia reiterated that those rebel groups who have not yet done so should be encouraged to engage in the political process.

Pending ICC Decision

¶10. (SBU) Libya characterized the AU/Arab League interactive dialogue with the Council on February 12 by saying that the only differences among Council members concerning Article 16 deferral were about timing. Libya noted that while some members do not believe that deferral is warranted at this time, Article 16 could be considered at a later stage. Burkina Faso repeated the AU request for Article 16 deferral, and Uganda said that the Council should not underestimate the

explosiveness of the situation if an indictment is issued against President Bashir. Turkey noted that SRSQ Qazi had expressed alarm to the Council last week that if Article 16 were not invoked, difficulties on the ground would increase. Turkey asked Le Roy for his views concerning the impact of an ICC decision. China and Russia expressed support for the AU/Arab League interactive dialogue.

¶11. (SBU) Mexico unequivocally stated that Article 16 deferral was not justified at this time, observing that armed conflict has continued and with no evidence of GOS compliance with ICC decisions. Costa Rica urged the Council to respect the ICC's independence. UK Perm Rep Sawers reiterated that there has been no cooperation between the GOS and ICC. Croatia maintained its position on the importance of fighting impunity. France expressed support for justice and urged that an ICC decision not be used as a pretext for violence. Austria said that, regardless of what the ICC decides, it is critical for peace processes to continue.

Muhajeriya -- Efforts to Issue PRST

¶12. (SBU) Ambassador Rice expressed disappointment that the Council was not able to issue a Presidential Statement (PRST) last week in support of UNAMID's decision to remain on the ground in Muhajeriya. The UK, Austria, Croatia, and France indicated their disappointment in the Council's inability to issue a statement, reiterating that any statement would have blamed both JEM for its attack on Muhajeriya and the GOS for its response, but more importantly, would have expressed Council support for UNAMID at a critical time.

Le Roy Responds to Questions

¶13. (SBU) Le Roy declined to answer the question posed by Turkey concerning the effect of an ICC indictment, noting that such a response would be purely speculative. Le Roy reiterated that the UN has detailed contingency plans for any adverse reaction that might result. Le Roy noted that only two currently deployed battalions are operationally effective: Egypt and Ethiopia. Le Roy said that all other deployed battalions need equipment.

President Orally Briefs Press

¶14. (SBU) Japanese Perm Rep Takasu, in his capacity as

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Council President, orally briefed the press on three elements. First, the Council appreciated the progress that had been made in UNAMID deployment, but agreed that many challenges remain in terms of providing equipment, logistical support and additional troops to the mission. Second, the Council expressed concern over restricted humanitarian access to internally displaced persons. Third, the Council welcomed the good will agreement between JEM and GOS as a step in the right direction, with hope it would lead to cessation of hostilities and a more comprehensive plan for peace.

Action Request

¶15. (C) On the margins of UNAMID consultations, UK Perm Rep Sawers indicated concern that Austria might be waffling on the issue of ICC deferral. Turkish Perm Rep Ilkin's comments during consultations also indicated some ambivalence regarding an ICC decision. USUN suggests the Department consider additional demarches in Vienna and Ankara urging Austria and Turkey to oppose an Article 16 deferral resolution.
Rice